

INLAND WETLANDS AND WATERCOURSES
REGULATIONS
OF THE
TOWN OF ENFIELD

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AMENDED

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SECTION 1

INTRODUCTION

- 1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of ground water; and to the existence of many forms of animal, aquatic and plant life.

Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreations values and benefits of the state for its citizens now and forever more.

The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by: minimizing the disturbance and pollution to inland wetlands, watercourses and their associated upland review areas; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, water purification, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement.

These regulations hereby provide an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

- 1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Enfield."
- 1.3 The Inland Wetlands and Watercourses Agency of the Town of Enfield was established in accordance with Section 2-48 of the Town of Enfield Town Ordinance and is duly

authorized to implement the purposes and provision of the Inland Wetlands and Watercourses Act in the Town of Enfield.

- 1.4 These regulations have been adopted and may be amended from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The Agency shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, with or without modifications, or deny permits for all regulated activities with inland wetlands, watercourses and upland review areas in the Town of Enfield pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2

DEFINITIONS

2.1 As used in these regulations:

- a. "Act" means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes as amended.
- b. "Agency" means the Inland Wetlands and Watercourses Agency of the Town of Enfield.
- c. "Agency member" means a member of the Inland Wetlands and Watercourses Agency of the Town of Enfield.
- d. Aquic soil moisture regime: means conditions in which either naturally occurring or disturbed soils are saturated for at least a few days each year. The duration, depth, and other characteristics of the saturated conditions vary with the specific soils. Those soils exhibiting these conditions are wetland soils, whether naturally occurring or disturbed, not all disturbed soils will be aquic. A determination must be made by a qualified soils expert.
- e. "Best management practice" – means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.
- f. "Bogs" are areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.
- g. "Clear-cutting" means the cutting of all or substantially all trees greater than two inches in diameter at breast height.
- h. "Commissioner of Environmental Protection" means the commissioner of the State of Connecticut Department of Environmental Protection.

- i. "Conservation easement" means a legal agreement running from the property owner to the town of Enfield, which agreement shall attach to and run with the land and be binding upon the property owners and his heirs, successors and assigns. The effect of the conservation easement shall be a legal agreement between the property owner and the town of Enfield, wherein the property owner agrees to perpetually preserve, protect, conserve and maintain in a natural scenic and open condition, all land contained within the legal description encompassing the conservation easement. By natural , scenic and open conditions it is hereby meant that the land must remain undisturbed (i.e. no construction; no filling or excavation; no other activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation or preservation of wildlife) a fee simple interest in the land contained within the conservation easement shall remain with the owner of the land subject to the conservation easement in favor of the town. Conservation easements, may, in appropriate circumstances, also run to a responsible agency or non-profit land trust.
- j. "Continual flow" means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

"COVENANT, RESTRICTIVE" - SEE RESTRICTIVE COVENANT

- k. "Deposit" means to fill, grade, dump, place, discharge, emit or any similar activity.
- l. "Designated agent" means an individual designated by the agency to carry out its functions and purposes. The designated agents of the Agency are the Assistant Town Planner, the Town Planner, the Town Engineer, the Zoning Enforcement Officer, the Chairman of the Enfield Conservation Commission and Inland Wetlands and Watercourses Agency, all members of the Enfield Conservation Commission and Inland Wetlands and Watercourses Agency.
- m. "Discharge" means emission of any water, substances, or material into wetlands or watercourses whether or not such substance causes pollution.
- n. "Disturbing the natural and indigenous character of the land" means altering the inland wetland or watercourse by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or pollution of the wetland or watercourse.
- o. "Essential to the farming operation" means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.
- p. "Farm" means farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoopouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities.

- q. "Farming" means cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of live stock, including horses, bees, poultry, fur bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land or brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling , planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or the direct sale. Aquaculture means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands.
- r. "Feasible" means able to be constructed or implemented consistent with sound engineering principles.
- s. "Marshes" are areas with soils that exhibit aquatic moisture regimes and are distinguished by the absence of trees and shrubs and the dominance of soft stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.
- t. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.
- u. "Municipality" means the Town of Enfield, Hartford County, Connecticut.
- v. "Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.
- w. "Permit" means the whole or any part of any certificate of approval or similar form of permission which may be required of any person by the provisions of these Regulations under the authority of the Agency.
- x. "Permittee" means the person to whom such permit has been issued.
- y. "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporation, governmental agency or subdivision thereof.

- z. "Pollution" means any harmful thermal, chemical, radioactive, biological, physical or visual effect upon or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials allowed to be discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion or sedimentation resulting from any filling, regarding, or excavation or other earth disturbing activity.
- aa. "Prudent" - means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.
- bb. "Regulated activity" means any operation within or use of a wetland or watercourse involving removal or deposition of material; or any obstruction, construction, alteration or pollution of such wetlands or watercourses, but shall not include the specified activities in Section 4 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing, or removal of material and discharging of storm water on the land within:
1. All areas within 100 feet of the boundary of such wetlands and watercourses.
 2. All areas within 200 feet of the Connecticut, and Scantic Rivers, Beamans Brook and Freshwater Brook, up stream of Elm Street crossing (excluding tributaries).
 3. All areas within 150 feet of the boundary of such wetlands or watercourses from any proposed subsurface waste disposal or drainage system.
 4. All slopes with a grade in excess of 25% within 100 feet of the boundary of a wetland or watercourse. The area measured from the toe of the slope to the top of ridge or escarpment shall be considered regulated.
 5. All escarpment slopes as identified in the "Soil Survey , Hartford County, Connecticut" (as it may be amended) as "Tc", "Te", "Tg", with grades in excess of 15% within 100 feet of the boundary of a wetland or watercourse. The area measured from the toe of the slope to the top of ridge or escarpment is a regulated activity

The Agency may rule that any other activity located within such upland review area, or in any other non-wetland or non-watercourse area, is likely to impact or affect wetlands or watercourses and is a regulated activity.

- cc. "Regulated Area" means any wetlands or watercourses in the Town of Enfield, as defined in these regulations.

Regulated Areas are generally shown on a map entitled Town of Enfield, Approved by the Enfield Inland Wetland Agency, 1976", which map is on file in the office of

the Town Clerk and Town Planner. In such instance, however, the actual type of soil or character of the area, as determined by the Inland Wetlands Commission based on information provided by its appointed or contracted certified soils scientist, shall determine the actual regulated area.

- dd. "Remove" means to drain, excavate, mine, dig, dredge, suck, grub, clear-cut, bulldoze, dragline, blast or any similar activity.
- ee. "Rendering unclean or impure" means altering the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.
- ff. "Restrictive covenant" - means a formal, written agreement which shall be recorded on the land records, with reference made thereto in any future deeds conveying the subject property, or any portion thereof, wherein the property owner agrees to perpetually preserve, protect, conserve and maintain in a natural, scenic and open condition, all land contained within the conservation area. Natural, scenic and open conditions mean that the land must remain undisturbed. There shall be no construction, excavation, filling or any other activity which is detrimental to drainage, flood control, water conservation, erosion control, soil conservation or preservation of wildlife.
- gg. "Significant impact activity" means any activity including, but not limited to, the following activities, which may have a major effect or significant impact.
 - 1. Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system.
 - 2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
 - 3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support desirable fisheries, wildlife, or other biological life; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
 - 4. Any activity which is likely causes or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
 - 5. Any activity which causes a substantial diminution of flow of a natural watercourse, or groundwater levels of the regulated area.
 - 6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
 - 7. Any activity which damages or destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

- hh. "Soil scientist" means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management (formerly the U.S. Civil Service Commission) or its successor.
- ii. "Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.
- jj. "Swamps" are areas with soils that exhibit aquatic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.
- kk. "Town" means the Town of Enfield, Hartford County in the State of Connecticut.
- ll. "Upland review area" means: areas surrounding wetlands and watercourses, determined by a municipal inland wetland agency for the purpose of informing the public and managing application review, in which agency regulation shall be assumed until determined otherwise. While requiring a permit for specified activities within defined upland review area boundaries, wetland agencies still maintain their authority to regulate proposed activities located in more distant upland areas if they find that the activities are likely to impact or affect a wetland/or watercourse.
- mm. "Vernal pool" means: A watercourse consisting of a confined basin depression which contains a body of standing water, usually drying out for part of the year during warm weather. It can be natural or man-made, and lacks a permanent outlet or any fish population. Further, the occurrence of one or more of the obligatory species which include the fairy shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog and eastern spadefoot toad are necessary to conclusively define the vernal pool.
- nn. "Waste" means sewage or radioactive material or any substance, liquid, gas or solid, which may pollute, or tend to pollute any of the waters within the Town.
- oo. "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not otherwise regulated pursuant to Sections 22a-28 to 22a-35, inclusive, of the General Statutes as amended.
 - 1. "Intermittent watercourses" shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

- pp. "Wetlands" means land, including submerged land as defined in Section 2.1.7 of these regulations, not regulated by the State of Connecticut pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Services of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites or made land which possess a saturated aquic soil moisture regimen as defined by the USDA Cooperative Soil Survey.

SECTION 3

INVENTORY OF REGULATED AREAS

- 3.1 The map of regulated areas entitled "Land Use Map, Town of Enfield*", Approved by the Enfield Inland Wetlands Agency, 1976*", delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the offices of the Town Clerk, the office of Planning and Community Development, and the office of the Town Engineer; Department of Public Works. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. The Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourse.
- 3.2 Any property owner who disputes the designation of any part of his or her land as a wetland or watercourse on the Inland Wetlands and Watercourses Map, may petition the Agency to change the designation. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with Section 15, (Appeals) of these regulations may be required of the property owner when the Agency requires an accurate delineation of regulated areas.
- 3.3 The Agency or its designated agents shall inventory and maintain current records of all regulated areas within the town. The Agency may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the town. Such map amendments are subject to the public hearing process set forth in Section 14, (Amendments) of these regulations.
- 3.4 The Agency and/or its designated agents shall monitor and maintain general surveillance of the regulated areas within the Town of Enfield to ensure that no unauthorized activities occur in regulated areas.

*These will change with a new Wetlands Map

SECTION 4

PERMITTED USES AND OPERATIONS AS OF RIGHT AND NONREGULATED USES AND OPERATIONS

4.1 The following uses and operations shall be permitted in regulated areas, as of right:

- a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear-cutting of timber except for the expansion of agricultural crop land the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
- b. A residential home on an individual lot for which a building permit was issued prior to July 1, 1987. If the lot is part of a subdivision, the subdivision must have been approved by July 1, 1974 as well as the building permit issued before July 1, 1987, the person claiming a use of regulated areas permitted as a right under this subsection shall document the validity of said right by providing a certified copy of the building permit and plot plan showing proposed and existing topography, house, well, sewage disposal and driveway locations, and any other necessary information to document the person's entitlement;
- c. Boat anchorage or mooring not to include dredging or dock construction;
- d. Uses incidental to the enjoyment or maintenance of residential property containing a residential home and the area of said residential property, defined as equal to or smaller than the largest minimum residential lot size permitted anywhere in the municipality, provided in any town, where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or into a wetland or watercourse or diversion or alteration of a watercourse;
- e. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with existing or potential public water supplies except as provided in Section 22a-401 and 22a-410 of the General Statutes.
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut

general statutes or July 1, 1974 which ever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this section of these regulations: "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while pipe remains in place.

- 4.2 The following operations and uses shall be permitted, as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
 - a. Conservation of soil, vegetation, water, fish, shellfish and wildlife; and
 - b. Outdoor recreation including, play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated.
- 4.3 All activities in regulated areas involving any alteration or use of a regulated area not specifically permitted by this section shall require a permit from the Agency in accordance with Section 6 of these regulations.
- 4.4 To carry out the purposes of this section, any person proposing to carry out a permitted or non-regulated activity in a regulated area shall, prior to commencement of such activity, notify the Agency with sufficient information to enable it to determine that the proposed activity is permitted or non-regulated.

The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated activity or that a permit is required. Such ruling shall be in writing and be provided to the Agency and shall be made no later than the next regularly scheduled meeting of the agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time.

SECTION 5

ACTIVITIES REGULATED BY THE STATE

- 5.1 In addition to any permit or approval required by the Agency, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- a. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-411 of the Connecticut General Statutes as amended;
 - b. Construction or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349a (model) of the General Statutes as amended;
 - c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to Sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to Sections 22a-28 through 22a-35 of the General Statutes as amended;
 - d. Diversion of water, including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day or any piping, culverting, channelization, relocation, damming or other alteration of the location of flow of any surface waters of the state where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to Sections 22a-365 through 22a-378a (model) of the General Statutes as amended;
 - e. Discharges into the water of the state pursuant to Section 22a-430 of the General Statutes, as amended; or
 - f. Discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.
- 5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities and other activities, in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the state of Connecticut, except any local or regional board of education, (1) after an advisory decision on such permit has been rendered to the Commissioner by the Agency or (2) thirty-five days after receipt by the Commissioner of such application, whichever occurs first.
- 5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the General Statutes.
- 5.4 the Commissioner of Environmental Protection shall have exclusive jurisdiction over

activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under sections 22a-403 or 22a-41 of the Connecticut General Statutes. Any person receiving such a dam repair or removal order or dam construction permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.

SECTION 6

REGULATED ACTIVITIES TO REQUIRE A PERMIT

- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetland and Watercourses Agency of the Town of Enfield.
- 6.2 The Agency shall regulate any activity in such regulated areas, unless such operation or use is permitted or nonregulated pursuant to Section 4 of these regulations.
- 6.3 Any person found to be conducting or maintaining a regulated activity without prior authorization of the Inland Wetland and Watercourses Agency of the Town of Enfield, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.

SECTION 7

APPLICATION REQUIREMENTS

- 7.1 Any person intending to undertake a regulated activity or renew or amend a permit to conduct such activity shall apply for a permit on a form entitled "Town of Enfield Inland Wetlands and Watercourse Agency - Application for Permit." An application shall include an application form and such information as prescribed by this section and any other information the agency may reasonably require. Application forms may be obtained in the office of Planning and Community Development.
- 7.2 If an application to the town of Enfield planning and zoning commission for subdivision or resubdivision of land involves land containing a regulated area, the applicant shall, in accordance with section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the agency in accordance with this section, no later than the day the application is filed with such planning and zoning commission.
- a All subdivision applications shall be required to go before the Agency for a Determination of Permit Need (Jurisdictional Ruling).
- 7.3 All applications shall contain prescribed information that is necessary for a fair and informed determination of the issues, as specified by the Agency or its designated agent.
- 7.4 The Agency and/or its designated agent and the applicant may hold a pre-application meeting to examine the scope of a proposed regulated activity or to determine whether or not the proposed application involves a significant activity. The Agency shall state, in writing, the reasons for a significant activity determination.
- 7.5 All applications shall include the following information in writing or on maps or drawings (per model).
- a. The applicant's name, home or business address and telephone number and the applicant's interest in the property;
- b. The land owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application;
- c. The purpose and a description of the proposed activity, and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- d. A location map at a scale of 1 inch - 2,000 feet identifying the geographical location of the property involved;
- e. If all the following information cannot be legibly presented on a single site plan,

then a plan at a scale of 1 inch equals 100 feet shall be submitted. It shall identify the geographical location of the property and the limits of inland wetlands, watercourses and all regulated areas within the property boundaries. In addition, it shall identify adjacent lands, adjacent regulated areas, affected upstream and downstream areas, 100 year floodplains (with elevations if available), aquifer protection areas, soil types from the published soils survey: it shall also identify existing and proposed of the following: property lines, roads and drives, buildings and associated utilities, topography, spot elevations, lands protected as open space or by private conservation easements, and vegetative covers; and other pertinent features as may be identified by the Agency or its designated agent. The following is a recommended Symbols Key:

| Item | Symbols |
|---|---------------------|
| Wetlands (highlighted in Blue) | |
| Regulated Areas (Highlighted in Green) | |
| Existing Topography | |
| Proposed Topography | |
| Spot Elevations | |
| Property Owners including open space labels) | N/F John & Jane Doe |
| 100 year floodplain, Floodway, and Elevations | |
| North Arrow & Scale | |
| Aquifer Protection | |
| Soil Symbols | |
| Existing Property | |
| Proposed Property | |
| Roads & Drives | |
| Buildings | |
| Utilities | |

| | |
|---------------------|--|
| Vegetation | |
| Wetland (Non-Woody) | |
| Contour Lines | |

- f. A site plan at a scale that provides sufficient detail showing existing and proposed conditions, including maximum building areas, in relation to regulated areas and measures proposed to mitigate the potential adverse environmental impacts. Such mitigation plans should include the best management practices proposed to be implemented as part of the project; identify any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.
- g. A title block indicating the name of the project, landowner and applicant, name and signature of the person preparing the plan or map, date prepared and subsequent revision dates, a legend of symbols used for each plan or map and scale;
- h. Names and addresses of abutting property owners as of a date no earlier than 30 days before the date the application is submitted to the Agency;
- i. Certification that the applicant is familiar with the information provided in the application and is aware of the penalties for obtaining a permit by deception or by inaccurate or misleading information;
- j. Authorization for the Agency members and their designated agents to inspect the property, at reasonable times, both before and after a final decision has been issued, and after completion of the project;
- k. The calculated (1) total area (square feet) of wetlands and watercourses on the subject property and (2) total area (square feet) of regulated area that would be disturbed by the proposed regulated activities and the subset of regulated area which is just wetlands and watercourses;
- l. Submission of the appropriate filing fee based on the fee schedule established in these regulations;
- m. Alternatives considered and subsequently rejected by the applicant and why the alternative as set forth in the application was chosen; all such alternatives shall be diagrammed on a site plan or drawing;
- n. Authorization for the members and agents of the Agency to inspect the subject land at reasonable times, before a final decision has been issued;

- o. Any other information the Agency or its designated agent deems necessary for the review and evaluation of the application.

7.6 All applications involving a land use proposal subject to these regulations and also subject to subdivision, site plan review, or special use permit application may be required to contain the following additional information:

- a. All wetland boundaries on the subject property shall be identified by a certified soil scientist and located in the field by a licensed land surveyor. All wetland soil types shall be classified by the soil scientist;
- b. The soil scientist shall consecutively number the survey tapes that mark boundary lines of wetlands that will be or may be affected by the proposed activity.
- c. The soil scientist shall prepare a report that includes the name of the applicant and project, the location of any limits of the property investigated, the dates of the soil investigations, a brief soil description of each soil mapping unit investigated, the set of the consecutive numbers used on survey tapes to identify the wetland boundaries appearing on the site plan are to the best of his knowledge true and accurate;
- d. All watercourses identified on the property shall be located and identified on the site plan to the satisfaction of the Agency or its designated agent;
- e. A site plan shall be submitted at a scale of 1 inch equals 40 feet, or a scale that exhibits greater detail, indicating the following: location and limits of all regulated areas; existing and proposed conditions in relation to regulated areas; location of prominent features within regulated areas such as bedrock outcrops, stone walls, trees, sand dunes deemed by the Agency or its agents to be of critical value, and existing building and drives; names of abutting property owners; soil erosion and sediment control measures; any measures to detain or retain storm water runoff or recharge groundwater; any plantings or habitat improvement; and any other measures proposed to mitigate the potential environmental impacts;
- f. A map of sufficient scale shall be submitted indicating each surficial drainage area influencing each distinct wetland area or watercourse on the property;
- g. A written description of the physical and vegetative characteristics shall be submitted for each distinct wetland area; and
- h. Any other specific information reasonably requested by the Agency or its designated agent.
- i. Within 365 days of approval, the applicant shall submit to the town planning office, final plans as approved by the commission. Such plans shall be submitted on paper and/or mylar, in addition to a digital format prescribed by the town planner. The commission may waive this requirement by a majority of all members when the applicant's plans are not prepared digitally.

- j. Photographs of the site, from aerial photography and/or hand held cameras shall be supplied.
 - k. Authorization for the members and agents of the Agency to inspect the subject land, at reasonable times, before and after a final decision has been issued.
- 7.7 A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- 7.8 If the Agency determines that an application involves a significant impact activity, as defined in Section 2.1g.g. of these regulations, then the Agency may require that the applicant provide the following additional information:
- a. Site plans at a scale of 1" equal 40 feet (or a scale that provides sufficient detail) for the proposed land use on the subject property which will be affected indicating details of: existing and proposed conditions; wetland and watercourse and regulated area zone boundaries, and contour intervals of land and other topographic features; boundaries of land ownership; proposed regulated activities; and other pertinent features of land use being proposed on the subject property for development, which plans shall be drawn by a licensed surveyor, professional engineer, or landscape architect registered in the State of Connecticut or by such other qualified person;
 - b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses;
 - c. Soil sample data to include all areas on the property that lie within, or partly within an area believed to contain poorly drained, very poorly drained alluvial and/or flood plain soils. The data shall be shown on the site plans and identified in the field by a qualified soil scientist. The soil type identification must be consistent with the categories established by the National Cooperative Soils Study of the United State Soil Conservation Service;
 - d. Description of the ecological communities and functions of the wetlands or watercourses involved with the application on these communities and wetland functions;
 - e. Description of how the applicant will change; diminish or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, each alternative to the proposed regulated activity, and why each alternative considered was deemed neither feasible nor prudent;
 - f. Description of the chemical and physical characteristics of any proposed fill material to establish the desired type of quality of fill material to be used in all regulated areas;
 - g. Measures which mitigate the impact of the proposed activity;

- h. Maps and descriptions that identify downstream and downgradient regulated areas which are off-site and their condition, existing off-site structures on adjacent properties, and watershed or drainage area boundaries which influence the subject regulated area; and
- i. Biological evaluation that will show the extent of the presence of plant species commonly associated with swamps, bogs, and marshes. Also, the evaluation can include the probable effect of the proposed activity upon those evaluated plant species and upon the indigenous animal life.
- j. If the proposed activity may affect a watercourse, the applicant may be required to submit information relative to the present character and the project impact of the proposed activity upon the watercourse.

7.9 All applicants shall certify as to each of the following:

- a. Whether any portion of the wetland or watercourse on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality.
- b. Whether sewer or water drainage from the project site will flow thorough and affect the sewage or drainage system within the adjoining municipality; and
- c. Whether water runoff from the improved site will affect streets or other municipal or private property within the adjoining municipality.

7.10 A reporting form shall be completed by the applicant during the application process which provides the Commissioner of the DEP with information necessary to properly monitor the inventory of State wetlands. A copy of the Statewide Inland Wetland Activity Reporting Form shall be part of the application and all applicable sections of said form shall be completed by the applicant. These completed sections to be provided as part of the application shall include all of the requested information on the form with the exception of the information pertaining to the Agency's decision. See Appendix

7.11 Nine (9) copies of all application materials shall be submitted unless otherwise directed in writing by the Agency or its designated agent.

7.12 Any application to renew a permit shall be granted upon request of the permit holder unless the agency finds that there has been a substantial change in circumstances which requires a new permit application, or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten (10) years.

Any application to extend the expiration date of a previously issued permit or amend an existing permit shall be filed with the Agency at least sixty-five (65) days prior to the expiration date for the permit in accordance with Section 8 of these regulations.

Such application for renewal, extension or amendment shall set forth the following information:

- a. The application shall state the name, address and telephone number of the permit holder, the address or locational description of the property involved, and the dates of issuance and expiration of the permit;
- b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
- c. The application shall describe any changes in facts or circumstances affecting the regulated areas on the property for which the permit was issued;
- d. The Agency may accept a late application to extend an expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity. The application shall describe the extent of work completed for the activities authorized in the permit;
- e. The application shall incorporate by reference the documentation and record of the original application; and
- f. The Agency shall evaluate the application pursuant to Section 10 of these regulations and grant the application as filed, grant it with any terms or limitations, or deny it.

SECTION 8

APPLICATION PROCEDURES

- 8.1. All applications shall be filed for receipt with the Department of Planning. The application fee shall be paid at the time of filing. A schedule of fees established under Section 19 of these regulations shall be available at the Office of Planning and Community Development.
- 8.2. The date of receipt of any application, petition, request or appeal shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to such Agency or its Agent of such application, petition, request or appeal or thirty-five (35) days after such submission, whichever is sooner. (Amend. Effective Date: Sept. 26, 2004).
- 8.3. At any time during the review period, the Agency may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or regulated areas affected by the regulated activity. (The Agency shall not exceed the required sixty-five (65) day time limit in taking action on an application pending the receipt of additional information as stated in Section 1.2 of these regulations.)
- 8.4. All applications shall be open for public inspection.
- 8.5. Incomplete applications may be denied.
- 8.6. In the case of any application to conduct or cause to be conducted a regulated activity upon an inland wetlands or watercourse is filed, where any portion of the wetland or watercourse on which such regulated activity is proposed is located within 500 feet of the boundary of East Windsor, Ellington, Somers, Suffield, or Windsor Locks, Connecticut or Longmeadow or East Longmeadow, Massachusetts, the applicant shall give written notice of the proposed activity, by certified mail return receipt requested, to the adjacent municipal wetland agency on the same day of filing a permit application with the Agency. Documentation of such notice shall be provided to the Agency.
- 8.7. The Agency shall, in accordance with Connecticut General Statutes sections 8-7(f) and 22a-42b, notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which (Amend. Effective Date: Sept. 26, 2004):
 - a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
 - b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c. A significant portion of the sewer or water drainage from the project site will flow through and significantly affect the sewage or drainage system within the adjoining municipality; or
 - d. Water runoff from the improved site will affect streets or other municipal or private property with the adjoining municipality.

Notice of the pendency of such application shall be made by certified mail, return receipt requested and shall be mailed within seven (7) days of the date of receipt of the application.

- 8.8 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the Inland Wetlands Agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such shall be provided to the Agency.

- 8.9 Instructions for applications involving authorized agent approvals:

- a. The Enfield Inland Wetlands and Watercourses Agent has been authorized to approve and/or extend applications for activities in the upland review area in cases where the activities will result in no greater than minimal impact to wetlands/watercourses (Amend. Effective Date: Feb. 4, 2004).
- b. The duly authorized agent may only approve or extend and may not deny an application. If the duly authorized agent believes an application may have greater than a minimal impact on wetlands/watercourses, the application shall be referred to the Inland Wetlands and Watercourses Agency for either a determination of permit need or a full permit (Amend. Effective Date: Feb. 4, 2004).
- c. The following procedures must be followed when making an application for duly authorized agent approval (Amend. Effective Date: Feb. 4, 2004):
 1. The applicant shall complete an Application Form and provide information required by the Regulations.
 2. The applicant shall submit three (3) copies of the application and appropriate fee to the Planning Department, Town Hall, 820 Enfield Street, Enfield, CT 06082.
 3. The Enfield Inland Wetlands and Watercourses Agent shall issue a decision within ten (10) business days of receipt of the application.
 4. Notice of decision shall be published in a newspaper having general circulation in the Town of Enfield within ten (10) business days of date of the decision.
 5. No work may commence until after the 15-day appeal period (from date of publication) has expired, or if an appeal is taken, until a decision of the Agency is made.

SECTION 9

PUBLIC HEARINGS

- 9.1 The inland wetlands agency shall not hold a public hearing on an application unless the inland wetlands agency determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five (25) persons who are 18 years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the agency not later than fourteen days after the date of receipt of such application, or the agency finds that a public hearing regarding such application would be in the public interest. The Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after receipt of such application. All applications, maps and documents relating thereto shall be open for public inspection. All persons may appear and be heard at any public hearing and may be represented by agent or by attorney (Amend. Effective Date: Sept. 26, 2004).
- 9.2 Notice of the public hearing shall be published at least twice at the intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected regulated area is located.
- 9.3 Notice of the public hearing shall be mailed to the owner(s) of record of abutting land by the applicant no more than fifteen days and no less than ten days prior to the day of the hearing. Notice of the public hearing shall be sent by certified mail. The applicant shall provide documentation that the owner(s) of record of abutting land were duly notified pursuant to the regulations by submitting a copy of return receipts to the agency. If an abutting property is held in common ownership all unit owners shall be notified individually. [Per IW 126 - Effective April 17, 1991]
- 9.4 In the case of any application which is subject to the notification provisions of Section 8.7 of these regulations, a public hearing shall not be conducted until the clerk of such adjoining municipality has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

SECTION 10

CONSIDERATIONS FOR DECISION

- 10.1 The Agency may consider the following in making its decision on an application:
- a. The application and its supporting documentation;
 - b. Public comments, evidence and testimony from a public hearing;
 - c. Reports from other agencies, commissions, departments and their staffs including, but not limited to, the Town Office of Planning and Community Development, Public Works Department, Town Engineer, the North Central Health District, and Building Department; and
 - d. Comments on any application from the Natural Resource Conservation Service, Hartford County Soil and Water Conservation District, the Environmental Review Team, the Connecticut Department of Environmental Protection, the Capitol Region Council of Governments, agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
- 10.2 Non-receipt of comments from agencies and commissions listed in Section 10.1 above within the prescribed time shall neither delay nor prejudice the decision of the Agency.
- 10.3 Standards and Criteria for Decision.

In carrying out the purposes and policies of sections 22a-36 to 22a-45 of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, The Agency shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:

- a. The environmental impact of the proposed regulated activity on the inland wetland or watercourse, including the effects on capacity of the inland wetland's and watercourse's capacity to support desirable biological life, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety;
- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses, including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of requiring actions of a different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity;

- c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options;
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. This requires recognition that the inland wetlands and watercourses of the State of Connecticut are an indispensable, irreplaceable and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion, diminution or obstruction of water flow including low flows, and by the erection of structures and other uses;
- e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property which would be caused or threatened by the proposed regulated activity, or the creation of conditions which may do so, especially those resulting from activities within the regulated area. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic aesthetic, recreational, and other public and private uses and values of wetlands and watercourses to the community;
- f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity that are made inevitable by the proposed regulated activity and which are likely to impact or affect wetlands or watercourses;
- g. Measures which would mitigate the impact of any aspect of the proposed regulated activity. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, prevent flooding, supply water, controls sedimentation prevent erosion, assimilate wastes, facilitate drainage, and provide recreation and open space;

- h. The proposed regulated activity does not interfere with the drainage system of the area or does not constitute a possible flood hazard, considering the general topography of the area, the watercourse pattern of the vicinity and the size of the drainage areas involved; and
- i. In applying the above standards and criteria, the Agency shall consider activity in the regulated area with respect to its impact on the related wetland and/or watercourse. An activity in the regulated area which is determined by the Agency under Section 4.4 of these regulations not to affect any wetland or watercourse is not a regulated activity.

10.4 In the case of an application which received a public hearing:

- a. Pursuant to a finding by the inland wetlands agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Agency shall consider the facts and circumstances set forth within section 10.3. This finding and the reasons therefore shall be stated on the record in writing in the decision of the Agency.
- b. In the case of any application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the agency shall propose on the record in writing the types of alternatives which the applicant may investigate, provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.

10.5 For the purposes of this section, (1) "wetlands or watercourses" includes aquatic, plant or animal life and habitats in wetlands and watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs (Amend. Effective Date: Feb. 2, 2005).

10.6 The Agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses (Amend. Effective Date: Feb. 2, 2005).

10.7 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. However, the Agency is not precluded from seeking advice from its own staff on information already in the record of the public hearing. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes (Amend. Effective Date: Feb. 2, 2005).

SECTION 11

DECISION PROCESS AND THE ISSUED PERMIT

- 11.1 In granting a permit the inland wetlands agency, may grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity, which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2 No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such application. Failure of the Inland Wetlands Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency shall be withdrawn by the Applicant or denied by the Agency (Amend. Effective Date: Sept. 26, 2004).
- 11.3 The Agency shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 11.4 The Agency shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the agency shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.
- 11.5 If a regulated activity authorized by the permit also involves an activity or project which requires zoning or subdivision approval, a special permit, or variance, a copy of the decision and report on the application shall be filed with the Enfield Planning and Zoning Commission within fifteen (15) days of the date of the decision.
- 11.6 The Agency or its designated agents may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.

- 11.7 Any permit issued under this section for the development of property for which an approval is required under section 8-3, 8-25 or 8-26 of the general statutes shall be valid for five years provided the agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued under this section for any other activity shall be valid for not less than two years and not more than five years.
- 11.8 No permit shall be assigned, transferred, sublet or sold without the written permission of the agency.
- 11.9 If a bond is required in accordance with Section 12 of these regulations, no permit shall be issued until such bond is provided.
- 11.10 General provisions in the issuance of all permits:
- a. In evaluating applications in which the Agency relied in whole or in part on information provided by the applicant, if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
 - b. All permits issued by the agency are subject to, and do not derogate, any present or future rights or powers of the Agency or the Town, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal state, and municipal laws or regulations pertinent to the property or activity.
 - c. If the activity authorized by the issued permit also involves an activity or a project which requires zoning or subdivision approval, special permit, or variance, no work pursuant to the issued permit may begin until such approval is obtained.
 - d. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- 11.11 Action by duly authorized agent:
- a. This section is enacted pursuant to C.G.S. §22a-42a(c)(2). Provided the duly authorized agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to C.G.S. § 22a-39, the Agency may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing of applications prescribed in Sections 7, 8, and 10 of these regulations, such duly authorized agent may approve or extend such an activity at any time (Amend. Effective Date: Feb. 4, 2004).

- b. Pursuant to C.G.S. §22a-42a (c)(2) (Inland Wetlands and Watercourses Act), the Enfield Inland Wetlands and Watercourses Agency delegates to the Enfield Inland Wetlands and Watercourses Agent as its duly authorized agent approval authority for the following activities, subject to the following limitations:

Activity

Sheds/Garages (up to 800 sq. ft.)

Decks, Building Additions (up to 800 sq. ft.)

Cut/Fill for pools (above ground only)

Septic System – installation and repair

Landscaping

Minor clearing in upland review area

Minor expansion of driveways

Utility construction/repair – Government and private

Minor grading (depositing or removal of up to 25 cubic yards)

The duly authorized agent shall, in addition to having the right to issue approval letters for the above noted activities, have the right to assess reasonable cash bonds and additional fees as provided for by the regulations and require reasonable use of permanent demarcation boundaries and other mitigation measures, such as restorative or enhancement plantings. The duly authorized agent may reduce or release cash bonds for staff approved activities and also grant permit extensions for activities in non-wetland or watercourse areas (Amend. Effective Date: Feb. 4, 2004).

- c. Any applicant receiving approval from the duly authorized agent shall, within ten days of the date of approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located. Any person may appeal the decision of the duly authorized agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider the appeal at its next regularly scheduled meeting provided the meeting is no earlier than three business days after receipt of the appeal by such Agency or its duly authorized agent. Any person may appear and be heard at the meeting held by the Agency to consider the appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its duly authorized agent or require an application for a permit in accordance with Section 7 of these regulations (Amend. Effective Date: Feb. 4, 2004).

SECTION 12

BONDING AND INSURANCE

- 12.1 Upon approval of the application and prior to issuance of a permit, the applicant may at the discretion of the Agency, be required to file a bond with such surety in such amount and in a form approved by the Agency. The amount of the bond shall be based on an estimate of the cost of remedial measures in the event of failure of the applicant to comply with the terms and conditions of the permit.
- 12.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.
- 12.3 All bonding for erosion and sedimentation controls must be submitted in a passbook or cash form. This will provide town staff immediate access to funds to respond to erosion and sedimentation or wetland emergencies.
- 12.4 The agency may require the applicant to certify that they have public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two(2) years of completion of such operations, in an amount to be determined by the agency commensurate with the regulated activity.

SECTION 13

ENFORCEMENT

- 13.1 The Agency or its designated agent(s) shall have the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the agency or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations. The designated agent(s) of the agency are the Assistant Town Planner, Director of Planning and Community Development, the Town Engineer, the Zoning Enforcement Officer, the Chair of the Enfield Conservation Commission and the Inland Wetlands and Watercourses Agency all members of the Enfield Conservation Commission and Inland Wetlands and Watercourses Agency

If the Agency or its designated agent(s) finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its designated agent shall follow the guidelines set forth in the Agency's Enforcement Policy¹, and may:

- a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order, the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person in writing by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the agency affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to Section 22a-44(b) of the General Statutes, as amended;
- b. Suspend or revoke a permit if it finds that the applicant has not complied with the terms, conditions or limitations set forth in the permit (See Appendix 1) or has exceeded the scope of work as set forth in the application including application plans. Prior to revoking any permit, the Agency shall issue notice to the permittee by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. At the show-cause hearing, the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision; and

- c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Section 13.1.a of these regulations or other enforcement proceedings as provided by law.

SECTION 14

AMENDMENTS

- 14.1 a. These regulations and the Inland Wetlands and Watercourses Map for the Town of Enfield may be amended, from time to time, by the Agency in accordance with the changes in the Connecticut General Statutes or regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- b. An application filed with an Inland Wetlands Agency which is in conformance with the applicable Inland Wetlands Regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in Inland Wetlands Regulations (or boundaries), including changes to regulated areas, taking effect on or after the date of such receipt, and any appeal from the decision of such agency with respect to such application shall not be dismissed by the superior court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this subsection shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses, or (2) to any change in regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of such receipt.
- 14.2 These regulations and the Town of Enfield Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except determinations of boundaries, at least thirty-five (35) days before the public hearing on their adoption. Application forms and fee schedules shall be considered as part of the Agency regulations.
- 14.3 Petitions or applications requesting changes or amendments to the Inland Wetlands and Watercourses Map, Town of Enfield, Connecticut, shall contain at least the following information:
- a. The applicant's name, address, telephone number, and a written consent to the proposed action set forth in the application;
- b. Applicant's interest in the land;
- c. The geographic location of the property involved in the application, including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas;
- d. The reasons for the requested action;
- e. The names and addresses of abutting property owners as shown in the records of the tax assessor of the Municipality as of a date no earlier than thirty (30) days before

the date the application is submitted to the Agency; and

- f. A map showing any proposed development of the property.
- 14.4 Any person who submits a petition to amend the Inland Wetlands and watercourses map, Town of Enfield, CT, shall bear the burden of proof for all requested map amendments. The Agency may require the property owner to present documentation by a soil scientist that the land in question does not have a soil type classified by the National Cooperative soils survey as poorly drained, very poorly drained, alluvial, or flood plain. Such documentation includes a map of the land in question signed by a soils scientist on which the flag locations defining the boundaries of the regulated soil types are depicted.
 - 14.5 Watercourses shall be delineated by a certified soil scientist, geologist, ecologist or other qualified individual for review by the Agency in making a determination.
 - 14.6 A public hearing shall be held on applications to amend the regulations and the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having general circulation in the Municipality at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing. Owners of property affected by any such amendments shall be notified by certified mail, return receipt requested, not less than two (2) days nor more than fifteen (15) days before such hearing. A copy of such proposed boundary change shall be filed in the office of the town clerk, for public inspection at least ten (10) days before such hearing (Amend. Effective Date: Sept. 26, 2004).
 - 14.7 Within sixty-five (65) days after receipt of a petition to amend the regulations or change the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the petition. The hearing shall be completed within thirty-five (35) days after commencement. The Agency shall act upon the changes requested in such petition within sixty-five (65) days after the close of the hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of all such periods shall not be for longer than sixty-five (65) days or may withdraw such petition. The failure of the Inland Wetlands Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition (Amend. Effective Date: Sept. 26, 2004).
 - 14.8 The agency shall make its decision and state, in writing, the reasons why the change in the inland wetlands and watercourses map was made.

SECTION 15

APPEALS

- 15.1 Appeal on actions of the Agency shall be made in accordance with the provisions of Section 22a-43 of the General Statutes, as amended.
- 15.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

SECTION 16

CONFLICT AND SEVERANCE

- 16.1 If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standard for the use of regulated areas shall govern. The invalidity of any word, clause, sentence, section, part, subsection or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.
- 16.2 If there is a conflict between the provisions of these regulations and the provisions of the act, the provisions of the act shall govern.

SECTION 17

OTHER PERMITS

- 17.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulations by the Town of Enfield, State of Connecticut and the Government of the United States, including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

SECTION 18

FEES

- 18.1 The Agency shall collect the following fees to help defray the costs and expenses of carrying out its duties under these regulations. No application shall be granted or approved by the Agency unless the correct application fees have been paid, or a waiver of such has been granted.

Fee for Activities:

| | |
|----------|--|
| \$ 15.00 | Determination of Permit Need (DPN) (Jurisdictional Ruling) |
| \$ 70.00 | Agent Approval Application (Amend. Effective Date: Feb 4, 2004) |
| \$ 75.00 | Base Fee for Individual Home Owner and Agricultural Actives Requiring a Permit |
| \$150.00 | Base Fee for All but Above. (DPN fee will be deducted, if a permit is deemed necessary.) |
| \$ 75.00 | Revisions to Existing Permits (i.e., alterations to conditions). |

The following will be added to the above fees:

| | |
|----------|--|
| \$ 30.00 | State Permit Fee (amend Effective Date Feb 4, 2004) |
| \$150.00 | Wetlands Map or Regulation Revisions |
| \$125.00 | For Each Proposed Additional Point of Impact to Wetlands beyond One (Temporary Soil and Erosion Control Points of Contact will be Exempt.) |

Boards, Commissions, Agencies, and Departments of the Town of Enfield are exempt from all fee requirements.

- 18.2 As a condition of any permit, the Agency may require that the applicant engage and pay for an independent consultant to report to the Agency the results of project monitoring and/or inspections. The consultant must be pre-approved by the Agency, and said consultant shall monitor and/or inspect on a schedule determined by the Agency.
- a. The consultant shall send written reports on performance on a schedule determined by the Agency simultaneously to both the Agency and the Office of Planning and Community Development, Town of Enfield, 820 Enfield Street, Enfield, Connecticut, and to the applicant.

SECTION 19

EFFECTIVE DATE OF REGULATIONS

- 19.1 These regulations including the Inland Wetlands and Watercourses Map, application forms, fee schedule and amendments thereto, shall be effective as to all applications filed for receipt as provided in Section 8.1 of these regulations on or after November 3, 1990, these regulations shall be filed in the Office of the Town Clerk and notice of such action shall be published in a newspaper having general circulation in the Municipality.

APPENDIX 1

TOWN OF ENFIELD

INLAND WETLANDS AND WATERCOURSE AGENCY ENFORCEMENT POLICY

PRIORITIES

It is the policy of the Enfield Inland Wetland and Watercourses Agency to take enforcement action on a priority basis which results in:

1. The speedy cessation of on-going activities or work that is violating the Enfield Inland Wetlands and Watercourses Regulations and the Connecticut General Statutes.
2. The timely notification of on-going activities or work that is anticipated to violate the Enfield Inland Wetlands and Watercourses Regulations and the Connecticut General Statutes.
3. The follow through of recognized violations to their resolution either through correction, restoration, removal, or authorization through the permit process.

AUTHORITY

Only the Chairman of the Enfield Inland Wetlands and Watercourses Agency, or in his or her absence, the Agency's Vice Chairman or designated agent(s), has the authority to issue orders or sign correspondence initiating any other enforcement action. Only the Chairman, or in his or her absence, the Vice Chairman with the consent of the Agency shall have the authority to request court action by legal counsel. However, the designated agent(s) may seek clarification on legal issues before the agency.

When negotiating the resolution of a violation either through restoration or the permit process, no agent shall have the authority to enter into agreements in any manner or close files. However, that approval may be secured by memo or letter or other documentation at the advice of said agent(s).

The Agency shall designate an agent(s), in writing, who is assigned to monitor or tract all enforcement actions of the Agency.

The appointed agents of the Agency are the Assistant Town Planner, the Town Planner, the Town Engineer, the Zoning Enforcement Officer, and the Chairman of the Conservation Commission. Members of the Agency, members of the Enfield Conservation Commission and any of these agents may investigate complaints of alleged violations of these regulations at the direction of the Agency.

INSPECTION REPORTS

The Assistant Town Planner or other designated agent, shall make a report to the Agency at the first meeting of each month. The report shall be in written form, consisting of the inspection log and wetlands reporting forms, and enforcement correspondence.

COURSE OF ACTION

In determining the course of action, it shall be the agency's policy to consider:

1. The environmental harm caused or anticipated by the violation;
2. the violator's knowledge of the existence of the law;
3. the extent of public concern;

COORDINATION

It is the policy of the Enfield Inland Wetlands and Watercourses Agency to coordinate actions with:

1. The Connecticut Department of Environmental Protection when their responsibilities are known to be involved;
2. Other State of Connecticut agencies when their interests are known.
3. Local officials including, but not limited to the following: the Agency's designated agent(s), the building inspector, the Director of Public Works, the North Central Health District Sanitarian, the Hartford County Soil and Water Conservation District, agencies in adjacent municipalities.
4. Federal agencies, including but not limited to the following: U.S. Army Corps of Engineers, Environmental Protection Agency, U.S.D.A. Soil Conservation Service, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.

Through copies of enforcement correspondence, the complainant will be notified of the Agency's actions when possible.

FINES, PENALTIES, AND THE RECOVERY OF COSTS

It is the policy of the Agency to request, through its attorney, the recovery of enforcement costs in addition to the pursuit of fines above those costs when court action is required to correct the violation. When the Agency has evidence of a knowing violation, it may seek additional penalties as provided by state statutes.

INSPECTION

The Enfield Inland Wetlands Agency and/or its appointed agents shall make regular inspections of all activities for which permits have been issued under the Agency's regulations. Such activities shall be subject to inspection at all reasonable times. The owner, applicant, or their agent shall have such permit readily available and shall produce the same for inspection by such agents of the Agency upon request.